

StarKist Samoa, Inc.

An Affiliate of StarKist Seafood Company



P.O. Box 368
Pago Pago, Tutuila Islands
American Samoa 96799
Telephone: 684-644-4231
Facsimile: 684-644-2440

April 8, 1992

Christopher A. Sproul
Assistant Regional Counsel
U. S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105

Dear Sir,

Re Docket No. MPRSA-1X-91-01

Attached is the Signed Consent Agreement and Final Order on Consent Assessing Administrative Civil Penalty in the matter of StarKist Samoa Inc., VCS Samoa Packing, and Pago Marine Inc.

Sincerely,

STARKIST SAMOA, INC.

A handwritten signature in black ink, appearing to read "M. Callaghan". The signature is written in a cursive, flowing style.

MAURICE W. CALLAGHAN
General Manager

MWC:tl

Attachment

cc: Norman L. Lovelace

1 Christopher A. Sproul
2 Assistant Regional Counsel
3 U.S. Environmental Protection Agency
4 Region IX
5 75 Hawthorne Street
6 San Francisco, California 94105
7 (415) 744-1394

8
9 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

10 REGION IX

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15 In the matter of) Docket No. MPRSA-IX-91-01
16)
17 STARKIST SAMOA, INC., VCS) CONSENT AGREEMENT AND FINAL
18 SAMOA PACKING COMPANY, and) ORDER ON CONSENT ASSESSING
19 PAGO MARINE, INC.) ADMINISTRATIVE CIVIL PENALTY
20 Respondents.)
21

22 CONSENT AGREEMENT

23 The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
24 REGION IX ("EPA Region IX" or "EPA") has issued an Administrative
25 Complaint for the Assessment of Civil Penalty In the Matter of
26 Starkist Samoa, Inc., VCS Samoa Packing Company, and Pago Marine,
27 Inc., Docket No. MPRSA-IX-91-01, pursuant to section 105(a) of

1 the Marine Protection, Research and Sanctuaries Act ("MPRSA")
2 alleging that the RESPONDENTS STARKIST SAMOA, INC. ("StarKist"),
3 VCS SAMOA PACKING COMPANY ("VCS"), and PAGO MARINE, INC. ("Pago
4 Marine") have violated the MPRSA. The EPA, StarKist, VCS and
5 Pago Marine having entered into this Consent Agreement,

6 NOW, THEREFORE, EPA, StarKist, VCS, and Pago Marine
7 HEREBY STIPULATE AS FOLLOWS:

8 1. Section 105(a) of the MPRSA authorizes EPA to
9 assess administratively a civil penalty against any person who
10 violates the Act or a permit issued pursuant to the Act of not
11 more than \$50,000 per violation. 33 U.S.C. § 1415(a). The
12 Administrator has delegated this authority to EPA Regional
13 Administrators. 40 C.F.R. § 220.4(b). The Regional
14 Administrator, Region IX has redelegated this authority to the
15 Director of the Water Management Division, Region IX.

16 2. Each day of a continuing violation, as well as the
17 unauthorized dumping from each vessel, constitutes a separate
18 MPRSA offense that may be subject to assessment of a penalty of
19 up to \$50,000. MPRSA § 105(c); 33 U.S.C. § 1415(c). In
20 assessing a penalty for any violations, EPA must take into
21 account the gravity of the violations, any prior violations, and
22 any good faith efforts to comply with the MPRSA after being
23 notified of violations. MPRSA § 105(a), 33 U.S.C. § 1415(a).

24 3. StarKist is a California corporation with its
25 principal place of business located in Pago Pago, American Samoa
26 and as such is a person within the meaning of the MPRSA. 33
27 U.S.C. §§ 1402(e) and 1411(a). StarKist is authorized to dispose

1 fish processing wastes into the Pacific Ocean near American Samoa
2 at a designated dump site by MPRSA Permit No. OD 90-01 Special.

3 4. VCS is a corporation with its principal place of
4 business located in Pago Pago, American Samoa and as such is a
5 person within the meaning of the MPRSA. 33 U.S.C. §§ 1402(e) and
6 1411(a). VCS is authorized to dispose fish processing wastes
7 into the Pacific Ocean near American Samoa at a designated dump
8 site by MPRSA Permit No. OD 90-02 Special.

9 5. Pago Marine is an American Samoa corporation with
10 its principal place of business located in Pago Pago, American
11 Samoa and as such is a person within the meaning of the MPRSA.
12 33 U.S.C. §§ 1402(e) and 1411(a). MPRSA Permits Nos. OD 90-01
13 and 90-02 Special ("the Permits") name Pago Marine as the waste
14 transporter of the fish processing wastes that StarKist and VCS
15 dump into the Pacific Ocean pursuant to the Permits. On all
16 disposal trips, Pago Marine disposes of commingled fish
17 processing wastes from StarKist and VCS.

18 6. EPA Region IX brought this action to assess civil
19 penalties for alleged violations committed by StarKist, VCS, and
20 Pago Marine of MPRSA section 101(a), 33 U.S.C. § 1411(a), and the
21 Permits issued pursuant to MPRSA section 102, 33 U.S.C. § 1412.
22 EPA alleged that StarKist, VCS, and Pago Marine violated the
23 MPRSA and the Permits by failing to adhere to Special Conditions
24 4.3 and 4.4 of the Permits.

25 7. Special Conditions 4.3 and 4.4 of the Permits
26 require that on all ocean dumping operations authorized under the
27 Permits, the disposal vessel must proceed to the center of the

1 designated ocean dump site, determine the prevailing current, and
2 then proceed 1.1 nautical miles up current from the center of the
3 disposal site before commencing dumping. The intent of this
4 requirement is to maximize the dispersion of wastes within the
5 designated dump site and to ensure that currents do not carry the
6 wastes beyond the authorized dump site boundaries. EPA has
7 alleged that the respondents failed to conduct dumping operations
8 as required by Special Conditions 4.3 and 4.4 of the Permits on
9 each of 145 separate disposal vessel trips between August 7, 1990
10 and January 31, 1991.

11 8. For their violations alleged in the Complaint,
12 StarKist and VCS shall each pay to the United States a civil
13 penalty of \$2,000. In addition, StarKist and VCS shall each
14 contribute \$6,000 to the Supplemental Environmental Project
15 described in paragraph 10.

16 9. For its violations alleged in the Complaint, Pago
17 Marine shall pay to the United States a civil penalty of \$500 and
18 contribute \$1,000 to the Supplemental Environmental Project
19 described in paragraph 10.

20 10. The Supplemental Environmental Project referred to
21 in paragraphs 8 and 9 shall be the Enhanced Marine Pollution
22 Surveillance Project described in the attached Memorandum of
23 Understanding between EPA and the American Samoa Environmental
24 Quality Commission (Exhibit 1).

25 11. To satisfy their civil penalty liability under
26 this Consent Agreement, StarKist and VCS shall tender money
27 orders or certified checks in the amount of \$2,000, and Pago
28

1 Marine shall tender a money order or certified check in the
2 amount of \$500, made payable to the Treasurer, United States of
3 America. StarKist, VCS and Pago Marine shall tender these money
4 orders or checks via certified mail within thirty (30) days of
5 receiving service of this Consent Agreement and Final Order on
6 Consent to:

7 U.S. Environmental Protection Agency
8 Region IX
9 Regional Hearing Clerk
P.O. Box 360863M
Pittsburgh, PA 15251

10 and mail photocopies via certified mail of the money orders or
11 checks to:

12 Regional Hearing Clerk
13 U.S. Environmental Protection Agency
14 Region IX
75 Hawthorne Street
San Francisco, CA 94105

15 Christopher A. Sproul
16 Office of Regional Counsel, RC-2-4
17 U.S. Environmental Protection Agency
18 Region IX
75 Hawthorne Street
San Francisco, CA 94105

19 In accordance with the Debt Collection Act of 1982, interest
20 shall accrue on any unpaid penalties that are due and payable
21 under this paragraph at the interest rate published by the U.S.
22 Treasury. Such interest shall be tendered along with any late
23 penalty payments in the same manner as specified above.

24 12. To satisfy their obligation to contribute to the
25 Supplemental Environmental Project described in paragraph 10,
26 StarKist and VCS shall tender money orders or certified checks in
27 the amount of \$6,000, and Pago Marine shall tender a money order

1 or certified check in the amount of \$1,000, made payable to
2 Department of Treasury, American Samoa Government (Oil Spill
3 Trust Fund, Account No. 180). StarKist, VCS and Pago Marine
4 shall tender these money orders or checks along with a cover
5 letter modeled after the attached sample letter (Exhibit 2) via
6 certified mail within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent to:

8 Ace Tago
9 Director
10 Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

11 and mail photocopies via certified mail of these money orders or
12 checks to:

13 Regional Hearing Clerk
14 U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
15 San Francisco, CA 94105

16 Christopher A. Sproul
17 Office of Regional Counsel, RC-2-4
18 U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
19 San Francisco, CA 94105

20 13. StarKist, VCS and Pago Marine shall each pay to
21 the United States, upon written demand of EPA, a stipulated
22 penalty of \$150 for any violations of Special Conditions 4.3 and
23 4.4 of the Permits that occur after the execution of this Consent
24 Agreement until the expiration date of the Permits, July 30,
25 1993.

26 14. Notwithstanding the payment of any stipulated
27 penalty pursuant to the preceding paragraph, EPA shall retain any
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1 and all enforcement authority, including the right to seek civil
2 and/or criminal penalties or fines and civil injunctive relief,
3 that it would otherwise have against StarKist, VCS, or Pago
4 Marine for violations of the MPRSA occurring subsequent to the
5 execution of this Consent Agreement.

6 15. Within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent, StarKist and
8 VCS shall ensure that the Captain(s) of the disposal vessel(s)
9 used on any and all ocean dumping operations authorized by the
10 Permits has received all instruction necessary for navigating the
11 disposal vessel(s) in the manner required by Special Conditions
12 4.3 and 4.4. StarKist and VCS shall submit to EPA a certified
13 statement or statements from the Captain(s) indicating that the
14 Captain(s) have received this instruction and that the Captain(s)
15 understand the requirements of Special Conditions 4.3 and 4.4,
16 are capable of ensuring compliance with these conditions, and
17 will, to the best of their ability, ensure that the conditions
18 are met.

19 16. If new Captain(s) are hired to pilot disposal
20 vessel(s) while the Permits are in effect, StarKist and VCS
21 shall, before these Captain(s) are allowed to pilot disposal
22 vessel(s), provide instruction to these new Captain(s) and secure
23 certified statement(s) from them in the same manner as required
24 in the preceding paragraph for the current Captain(s).

25 17. The responsibility to meet the requirements of
26 paragraphs 15 and 16 shall be the joint obligation of StarKist
27 and VCS. If StarKist and VCS fail to complete the requirements
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1 of paragraphs 15 and 16 by the deadlines established by those
2 paragraphs, then StarKist and VCS shall each pay to the United
3 States, upon written demand from EPA, a stipulated penalty of
4 \$100 per day until the requirements of paragraphs 15 and 16 are
5 met.

6 18. StarKist, VCS, and Pago Marine shall not deduct
7 the civil penalties or Supplemental Environmental Project
8 contributions provided for in paragraphs 8, 9, 11-13 and 17 from
9 their income for purposes of federal, state or local income tax.

10 19. Payment of the civil penalties and contributions
11 to the Supplemental Environmental Project referred to in
12 paragraphs 8, 9, and 11-12, together with adherence to all
13 additional requirements of this Consent Agreement and
14 accompanying Final Order on Consent, shall constitute full
15 satisfaction of any and all MPRSA civil penalty liability for
16 StarKist, VCS, and Pago Marine for the MPRSA violations alleged
17 in the Complaint.

18 20. Nothing in this Consent Agreement shall in any way
19 limit any right that EPA might otherwise have to seek injunctive
20 relief against StarKist, VCS and Pago Marine for violations of
21 any provision of federal law. Except as otherwise provided in
22 paragraph 19 of this Consent Agreement, EPA retains all legal
23 rights and remedies it would otherwise have against StarKist, VCS
24 and Pago Marine for violations of any provision of federal law.

25 21. StarKist, VCS, and Pago Marine neither admit nor
26 deny liability for any of the violations alleged by EPA in the
27 Complaint in this Matter.

22. In entering this Consent Agreement, EPA, StarKist, VCS, and Pago Marine hereby waive any and all rights to an appeal of the Order on Consent to be entered in this Matter.

23. If StarKist, VCS, or Pago Marine disputes any claim made by EPA for stipulated penalties pursuant to this Consent Agreement, StarKist, VCS or Pago Marine shall state this in writing to EPA and request a hearing before EPA Region IX's Regional Judicial Officer within thirty (30) days of receiving EPA's demand for stipulated penalties. Failure to adhere to this requirement shall constitute waiver of any right to contest or appeal stipulated penalty liability. The decision made by the Regional Judicial Officer following a hearing on any stipulated penalties dispute shall be binding and shall not be appealed by EPA, StarKist, VCS or Pago Marine to any administrative or judicial authority.

FOR THE CONSENTING PARTIES:

Date

✓ 8 92

Date

Harry Seraydarian
Director, Water Management Division
U.S. Environmental Protection Agency,
Region IX

Maurice W. Callaghan
President and General Manager
StarKist Samoa, Inc.

Date

Michael P. MacReady
General Manager
VCS Samoa Packing Company

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Date

D.H. Silk
President
Pago Marine, Inc.

1 FINAL ORDER ON CONSENT

2 EPA Region IX, StarKist, VCS, and Pago Marine having entered
3 into the foregoing Consent Agreement,

4 IT IS HEREBY ORDERED THAT:

5 1. StarKist and VCS shall each pay a civil penalty of
6 \$2,000 and Pago Marine shall pay a civil penalty of \$500 to the
7 Treasurer of the United States of America as specified in the
8 Consent Agreement.

9 2. StarKist, VCS and Pago Marine shall adhere to all
10 further requirements of the Consent Agreement, including the
11 requirements to contribute to a Supplemental Environmental
12 Project, instruct disposal vessel Captain(s) on proper disposal
13 requirements and submit the required certified statements from
14 disposal vessel Captain(s), pay stipulated penalties for permit
15 and/or Consent Agreement violations upon written demand from EPA
16 unless successfully contested as provided for in the Consent
17 Agreement, and refrain from claiming the penalties or
18 contributions required under the Consent Agreement as deductions
19 from income for federal, state, or local income tax purposes.

20 3. This order constitutes full adjudication of the
21 Complaint against StarKist, VCS, and Pago Marine issued by EPA in
22 this Matter. This order shall remain in effect until MPRSA
23 Permits Nos. OD 90-01 and OD 90-02 Special expire on July 30,
24 1993.

25 _____
26 Date

27 Steven W. Anderson
28 Regional Judicial Officer
U.S. Environmental Protection Agency,
Region IX



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, CA 94105

January 18, 1993

Togipa Tausaga
Director
American Samoa Environmental
Protection Agency
Office of the Governor
Pago Pago, American Samoa 96799

Dear Tony:

We have reviewed the draft MOU between ASEPA and the Department of Public Safety (DPS) concerning implementation of the Enhanced Marine Pollution Surveillance Supplemental Environmental Project, transmitted by your agency's letter of November 17, 1992. We agree that implementation of this portion of the project should be delayed until the new administrators of DPS and the Marine Enforcement Division (MED) are on board in early 1993. Because EPA relies on the American Samoa Government for surveillance of the ocean disposal operations to insure compliance with the canneries' ocean disposal permits, we feel that the enhanced surveillance project is very important. Thus, we would like to have the full support of the DPS and MED administrators in implementing the project. I hope Pat Young and I will get a chance to meet the new administrators when we visit Samoa next month.

Our comments on the draft MOU are as follows:

1. Under Section IV. DPS Roles and Responsibilities, I assume the workplan referenced is or will be based on the "Enhanced Marine Pollution Surveillance Project Plan", which was an attachment to the MOU between ASEQA and USEPA for implementation of the project. If, after discussion about the project with the new DPS and MED administrators, there are any changes to the workplan, we would like to be consulted on any proposed changes prior to the signing of the MOU between ASEPA and DPS. The final workplan should also include a schedule with the actual dates of completion of each task.
2. Development of the pamphlet outlining pollution and marine protection laws is not dependent on the new DPS administration. Therefore, we feel that this part of the project can be undertaken now, working with the existing MED and Coast Guard staff. We propose completion and distribution of the pamphlet by June 1993.

SYMBOL	E-4	W-7-1	E-4			
SURNAME	Young	Allen	Landace			
DATE	1/19/93	1/19/93	1/19/93			
U.S. EPA CONCURRENCES				OFFICIAL FILE COPY		

The canneries' ocean disposal permits expire in July 1993. They submitted their applications for renewal in December 1992. In preparing the new draft permits, EPA Region 9 will review the monitoring data submitted by the canneries as required by their existing permits. We would appreciate receiving any information from your office and/or the MED which would assist us in reviewing the data and setting conditions for the new permits. This would include information regarding the disposal operations, reports of fish wastes washing up on shore, reports of disposal outside of the designated dump site, or any other information. We would also appreciate a detailed account on how the MED conducts its surveillance of the disposal vessel and operations (e.g. how land bearings were determined, how often inspections are conducted, how the MED is notified about disposal trips, etc.), samples of MED reports filed on surveillance activities, a summary of surveillance activities over the course of the permits and findings, and any recommendations about disposal operations. Any additional information you feel would be helpful would be welcome. We greatly appreciate your assistance in this matter.

We look forward to working with your office and the MED on this project this year.

Sincerely,

Norman L. Lovelace, Chief
Office of Pacific Island and
Native American Programs

cc: Sheila Wiegman, ASEPA
Janet Hashimoto, W-7-1
Chris Sproul, ORC



Red 11/27/92

AMERICAN SAMOA GOVERNMENT
PAGO PAGO, AMERICAN SAMOA 96799
OFFICE OF THE GOVERNOR
ENVIRONMENTAL PROTECTION AGENCY

In reply refer to:

Serial:307

November 17, 1992

Pat Young
American Samoa Program Manager
Office of Pacific Islands & Native
American Programs
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105

Dear Pat:

Enclosed is a draft MOU between my office and the Department of Public Safety concerning implementation of the Enhanced Marine Pollution Surveillance Supplemental Environmental Project. As the Commissioner of Public Safety and the Commander of the Marine Enforcement Unit are likely to change due to the recent election, I request that we delay entering into the MOU and initiating this project until the new administrative is confirmed in 1993. None-the-less, your review and comment on the MOU would be appreciated. You may contact Sheila Wiegman of my staff for any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Pati Faiai".

Pati Faiai, Director
American Samoa Environmental
Protection Agency

Enclosures:

cc: Environmental Coordinator, ASEPA
Enforcement Branch

MEMORANDUM OF UNDERSTANDING BETWEEN THE
AMERICAN SAMOA ENVIRONMENTAL PROTECTION AND THE
DEPARTMENT OF PUBLIC SAFETY CONCERNING THE
MARINE POLLUTION SURVEILLANCE PROJECT

I. OBJECTIVE

The American Samoa Environmental Protection Agency (ASEPA) and the Department of Public Safety (DPS), Marine Enforcement Unit (MEU), seek to implement the Marine Pollution Surveillance Project. The purpose of this Memorandum of Understanding is to clarify the roles and responsibilities of ASEPA and DPS in this endeavor.

II. BACKGROUND

In 1992, the U.S. Environmental Protection Agency (USEPA) found the canneries and the sludge boat operator, Pago Marine, to be in violation of the Ocean Dumping Permit for the waste disposal site off Tutuila Island. The USEPA assessed penalties from the canneries and the operator and required them to fund the supplemental environmental project, the Marine Pollution Surveillance Project, for American Samoa at a cost of \$13,000. The MEU provides routine patrol and surveillance for pollution violations in Pago Pago Harbor and beyond. The goals of this project are to enhance the capability of the MEU in routine harbor and sludge boat monitoring through equipment, staffing, increased patrols, and public education.

III. ASEPA ROLE AND RESPONSIBILITY

- A. ASEPA will work with the MEU in an oversight capacity to complete the tasks contained in the attached project plan.
- B. ASEPA, as the administrator of the project funds, will review and approve project expenditures. The \$13,000 is contained in the Oil Spill Trust Fund administered by the ASEPA Director.
- C. ASEPA will submit quarterly reports and any other necessary reporting to USEPA on the project progress until its full implementation and completion.

IV. DPS ROLE AND RESPONSIBILITY

- A. DPS will complete all the tasks agreed to in the attached workplan and will consult with ASEPA as necessary concerning expenditures.
- B. DPS will report to ASEPA quarterly in writing on the progress of implementation of the project tasks.

V. GENERAL PROVISION

- A. This MOU does not supplement or replace other understandings or arrangements between ASEPA and DPS or other responsibilities or duties of ASEPA or DPS.
- B. The MOU may be modified any time by mutual consent and official endorsement by the Director, ASEPA and Commissioner, DPS.
- C. This MOU shall be effective upon signature by Director, ASEPA and Commissioner, DPS and shall remain in effect until terminated.

In WITNESS WHEREOF each of the parties hereto has executed this MOU as of the day year first written below:

WITNESS:

BY: _____
Director, American Samoa Environmental
Protection Agency

DATE: _____

BY: _____
Commissioner, Department of Public Safety

DATE: _____

Red 1/25/91
(need final w/sign)

Pat Young, OPINAP

U.S.

MOU: plan for
Cannery Supplemental
Environmental Project

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
U.S. ENVIRONMENTAL AGENCY AND THE ENVIRONMENTAL
AGENCY CONCERNING THE
STAR KIST SAMOA INC. SUPPLEMENTAL
ENVIRONMENTAL PROJECT**

I.

SW

Agency (USEPA) and Environmental Quality
Supplemental Environmental Project in lieu of
Co. and Star Kist Samoa Inc. for violations of
Ocean Dumping Permits OD 90-01 Special and OD 90-02 Special dated July 31, 1990.
The purpose of this Memorandum of Understanding (MOU) is to clarify the roles and
responsibilities regarding the Supplemental Environmental Project, Enhanced Marine
Pollution Surveillance.

II. USEPA ROLE AND RESPONSIBILITIES

- A. Funding in the amount of \$13,000 will be collected by USEPA for implementation of this project from Pago Marine, Inc., Samoa Packing Co., and Star Kist Samoa in lieu of civil fines. This will be deposited in the Oil Spill Trust Fund, American Samoa Government Account No. 180, which is administered by the Executive Secretary, EQC.
- B. USEPA, Region 9, Office of Pacific Island and Native American Programs, will provide guidance and oversight as necessary to EQC for implementation of the Supplemental Environmental Project.
- C. Approval in writing from Norman L. Lovelace, Chief, Office of Pacific Island and Native American Programs, USEPA Region 9, will be obtained for all expenditures.

III. EQC ROLE AND RESPONSIBILITIES

- A. EQC will be responsible for planning, implementation, and follow up of the Enhanced Marine Pollution Surveillance Project.
- B. EQC will be responsible through the Marine Enforcement Unit and EQC staff for meeting the following functions of the project.
 - 1. Complete an increased number of routine and unplanned vessel, cannery facility, and wharf inspections for pollution violations.
 - 2. Monitor on a more frequent basis vessels, facilities, and the wharf by boat spontaneously on a 24-hour basis for pollution violations.

10/1/90
10/1/90

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
U.S. ENVIRONMENTAL PROTECTION AGENCY AND THE ENVIRONMENTAL
QUALITY COMMISSION CONCERNING THE
SAMOA PACKING CO. AND STAR KIST SAMOA INC. SUPPLEMENTAL
ENVIRONMENTAL PROJECT**

I. OBJECTIVE

The U.S. Environmental Protection Agency (USEPA) and Environmental Quality Commission (EQC) seek to implement a Supplemental Environmental Project in lieu of civil fines collected from Samoa Packing Co. and Star Kist Samoa Inc. for violations of Ocean Dumping Permits OD 90-01 Special and OD 90-02 Special dated July 31, 1990. The purpose of this Memorandum of Understanding (MOU) is to clarify the roles and responsibilities regarding the Supplemental Environmental Project, Enhanced Marine Pollution Surveillance.

II. USEPA ROLE AND RESPONSIBILITIES

- A. Funding in the amount of \$13,000 will be collected by USEPA for implementation of this project from Pago Marine, Inc., Samoa Packing Co., and Star Kist Samoa in lieu of civil fines. This will be deposited in the Oil Spill Trust Fund, American Samoa Government Account No. 180, which is administered by the Executive Secretary, EQC.
- B. USEPA, Region 9, Office of Pacific Island and Native American Programs, will provide guidance and oversight as necessary to EQC for implementation of the Supplemental Environmental Project.
- C. Approval in writing from Norman L. Lovelace, Chief, Office of Pacific Island and Native American Programs, USEPA Region 9, will be obtained for all expenditures.

III. EQC ROLE AND RESPONSIBILITIES

- A. EQC will be responsible for planning, implementation, and follow up of the Enhanced Marine Pollution Surveillance Project.
- B. EQC will be responsible through the Marine Enforcement Unit and EQC staff for meeting the following functions of the project.
 - 1. Complete an increased number of routine and unplanned vessel, cannery facility, and wharf inspections for pollution violations.
 - 2. Monitor on a more frequent basis vessels, facilities, and the wharf by boat spontaneously on a 24-hour basis for pollution violations.

3. Routinely and spontaneously monitor the ocean dumping of cannery sludge for compliance with the Ocean Dumping Permits. No. OD 90-01 Special and OD 90-02 Special.
 4. Provide staff support, equipment and training to effectively carry out the above increased functions .
 5. Complete a pamphlet for all vessels in English, Chinese, Korean, and Samoan outlining pollution and marine laws.
- C. EQC will determine the frequency and schedule necessary to effectively prevent pollution violations. A plan (see Attachment A) to carry out the functions listed in B. above will be submitted to USEPA for approval within 30 days of the effective date of the settlement agreement.
- D. The EQC will provide a report with recommendations to the canneries, its waste transporter, and the USEPA outlining corrections or improvements on the waste disposal operation six months after initiation of the project.
- E. The MEU shall continue its increased inspection and monitoring activities to insure implementation of its recommendations by the canneries and associated vessels. The EQC will document the effectiveness of the project in a report submitted 12 months after initiation of the project detailing the success of the project through frequency of inspections, the number and type of violations cited, the number and type of pollution events, the amount of fines collected, and reports on cannery ocean dumping.

IV. ACCOUNTING PROCEDURES

- A. Funds for this project will be deposited in the Oil Spill Trust Fund Account, American Samoa Government Treasury Department Account No. 180 to be administered by the Executive Secretary, EQC. A separate accounting of the total amount of this project, \$13,000, will maintained by the EQC Executive Secretary. Disbursements will be made from this fund only for expenses related to this project upon authorization by the EQC Executive Secretary. Expenditures shall be made only with prior approval of Norman L. Lovelace, Chief, Office of Pacific Island and Native American Programs, EPA Region 9.
- B. The funds deposited in this account shall be utilized only for this project. A quarterly accounting of the funds will be provided to USEPA Samoa Packing, Inc., Star Kist Samoa, and Pago Marine, Inc. within 30 days after the close of the quarter.
- C. The Executive Secretary of the EQC shall be responsible for providing reports on the fund disbursement and followup.

V. GENERAL PROVISIONS

- A. This MOU does not supplement or replace other understandings or arrangements between USEPA and EQC, or other responsibilities and duties of USEPA or EQC.
- B. This MOU may be modified from time to time by mutual consent and officially endorsed by the Director, Water Management Division of USEPA, Region 9 and Chairman of EQC.
- C. This MOU shall be effective upon signature by the Director, Water Management Division, USEPA, Region 9, and Chairman of EQC and shall remain in effect until terminated.

IN WITNESS WHEREOF, each of the parties hereto has executed this MOU as of the day and year first written below:

WITNESS:

BY: _____
HARRY SERAYDARIAN, DIRECTOR
WATER MANAGEMENT DIVISION
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 9

DATE: _____

BY: _____
WILLIAM P. COLEMAN, CHAIRMAN
ENVIRONMENTAL QUALITY COMMISSION

DATE: _____

ENHANCED MARINE POLLUTION SURVEILLANCE PROJECT PLAN

Introduction

The U.S. Environmental Protection Agency (ASEPA) has collected \$13,000 in fines from Star Kist Samoa, Samoa Packing Co., and Pago Marine for violation of Ocean Dumping Permit conditions. These funds will be utilized to conduct the Enhanced Marine Pollution Surveillance Project (EMPSP). The roles and responsibilities of the USEPA, the Environmental Quality Commission (EQC), and accounting procedures are contained in a Memorandum of Understanding between these agencies. This project will be completed by the Marine Enforcement Division (MED) and the EQC. The following plan outlines the objectives of this project and how they will be met.

Objectives and Activities

1. Complete an increased number of routine and unplanned vessel, cannery facility, and wharf inspections for pollution violations.

Presently, the MED patrols the areas by vehicle and foot within Pago Pago Harbor most vulnerable for pollution incidents three times daily. This will be increased to twice per shift for a 3 month period depending upon weather and staffing. Search and rescue and emergency response may take priority. Records of observations from inspections and the number of tickets issued will be reviewed after the three month period to determine the effect of increased patrols on compliance. In addition, patrols will be completed at staggered times to prevent anticipation by potential violators.

2. Monitor on a more frequent basis vessels, facilities, and the wharf by boat spontaneously on a 24-hour basis for pollution violations.

Patrols via inflatable or a Boston Whaler are made once per day depending upon the staffing. These patrols will be increased to twice per day and at varied times depending upon weather and staffing. Search and rescue and emergency response may take priority. Surveillance after dark will be made a priority. This will continue for a 3 month period after which a review of records will be completed to determine the effectiveness of the surveillance.

3. Routinely and spontaneously monitor the ocean dumping of cannery sludge for compliance with Ocean Dumping Permits Nos. OD 90-01 Special and OD 90-02 Special.

Presently the MED monitors ocean dumping of sludge on at least a weekly basis. This will be increased to two to three times weekly for a six month period. Monitoring will include checking on the correct dump site via land bearings, that the correct dumping pattern is followed, and that sludge is only disposed of at the dump site. A follow up evaluation of site reports will be completed at 3 months and again at 6 months to determine the necessity of the increased monitoring and compliance with permit conditions.

4. Provide staff support, equipment, and training to effectively carry out the increased functions.

The EQC will work with the MED to ensure that adequate staffing and equipment are available to complete the increased patrols, surveillance, and monitoring described above.

5. The EQC in conjunction the with the MED and the U.S. Coast Guard will complete a pamphlet which explains pollution and marine laws, penalties, and correct methods for disposal of wastes. This will be translated through assistance of on island tuna vessel agents. Completion date for the pamphlet is 6 months from the start of the project. Distribution of the pamphlet will be provided by the MED, the Port Administration, and ship agents.
6. The EQC will review the outcome of increased monitoring at the 3 month date and provide recommendations to the MED on the feasibility and effectiveness of continuing the increased monitoring or whether additional monitoring is warranted.

PROJECT SCHEDULE

<u>Task</u>	<u>Responsible Party</u>	<u>Time for Completion</u>
1. 6 vehicle/foot patrols daily of vessels, canneries, and wharf	MED	3 months
2. 2 boat patrols daily	MED	3 months
3. 2 ocean dump site monitoring trips/week	MED	6 months
4. Review effectiveness of increased monitoring and provide recommendations	EQC, MED	3 months
5. Provide a report on sludge disposal monitoring	EQC	6 months
6. Project report to USEPA	EQC	12 months
7. Complete multilingual pamphlet	EQC	6 months

Budget for Enhanced Marine Pollution Surveillance

1. Waterproof Binoculars..... \$1,000

The MED presently does not have a pair of marine binoculars. Part of the increased surveillance/monitoring will be observations of possible violations of marine pollution laws which necessitate the ability to monitor these violations from afar, unobserved by the violators. Without binoculars, it would be very difficult, if not impossible, to conduct such surveillance.

2. 35 mm Camera/Telephoto Lens/Case..... \$1,500

The MED does not have any camera equipment necessary to carryout the additional surveillance duties for this project. The camera and telephoto lens are necessary to document violations of marine pollution laws for use as evidence in substantiating the violations. As in the justification for the binoculars, it is necessary to document these violations from afar, without being observed by the violators. Without this equipment and photo documentation, it will be more difficult to prove that violations occurred.

3. Marine and VHF Radio Equipment..... 3,500

The MED presently has VHF equipment installed on its boat; however, it needs additional communication equipment for the Zodiacs (large inflatable rafts) which will be utilized for surveillance in Pago Pago Harbor. Additionally, walkie-talkies are needed for each individual officer, as some of the enhanced surveillance and monitoring will be done on foot, along the pier and on the ships. Presently, each officer does not have his own walkie-talkie. Immediate communications is needed for all MED staff in order to coordinate surveillance activities, communicate potential violations and need for additional back-up if necessary.

4. MED Staffing..... \$ 6,000

This funding will be utilized for additional MED staffing to support the increased monitoring efforts.

5. Printing Costs for Marine Pollution Pamphlets..... \$ 1,000

A. Development of 4-page pamphlet by ASEPA/MED on marine pollution laws and regulations, i.e....explain generally which laws will be covered.. No cost

B. Translation costs (Samoan, Chinese, Korean)..... 200

C. Printing costs (500 pamphlets/language @ \$200/set)..... 800

1
2
3 **CERTIFICATE OF SERVICE**

4 I hereby certify that I served the foregoing **SECOND**
5 **STIPULATION FOR EXTENSION OF TIME FOR FILING ANSWER TO COMPLAINT**
6 by mailing copies thereof via first class mail from San Diego,
7 California to the following persons this 28th day of October,
8 1991:

9 Norman Wei
10 Manager, Environmental Engineering
11 STARKIST SEAFOOD CO.
12 180 East Ocean Blvd.
13 Long Beach, CA 90802

14 D.H. Silk, President
15 PAGO MARINE, INC.
16 P.O. Box 4058
17 Pago Pago, American Samoa 96799

[Signature]
C.T.C. SIMMONS
Secretary/Treasurer
Pago Marine Inc.

18 Christopher A. Sproul
19 U.S. ENVIRONMENTAL PROTECTION AGENCY
20 REGION IX
21 75 Hawthorne Street
22 San Francisco, CA 94105

[Signature]
Donna J. Wilcox

23 ORIGINAL RETURNED FOR FILING TO:

24 Steven J. Armsey
25 Regional Hearing Clerk
26 U.S. ENVIRONMENTAL PROTECTION AGENCY
27 REGION IX
28 75 Hawthorne Street
San Francisco, CA 94105

RECEIVED NOV 02 1991

Attention Pat Young.

From Pago marine

11-20-91

Christopher A. Sproul
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105
(415) 744-1394

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the matter of) Docket No. MPRSA-IX-91-01
)
STARKIST SAMOA, INC., VCS) CONSENT AGREEMENT AND FINAL
SAMOA PACKING COMPANY, and) ORDER ON CONSENT ASSESSING
PAGO MARINE, INC.) ADMINISTRATIVE CIVIL PENALTY
)
Respondents.)

CONSENT AGREEMENT

The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
REGION IX ("EPA Region IX" or "EPA") has issued an Administrative

SYMBOL	RC-2-4	E-4	E-4	CEH	RC-2-4	KL
SURNAME	Sproul	Young	Obfor NL	Wickman	Mutt	Sproul
DATE	2-10-92	2/11/92	2/11/92	2/11/92	2/13/92	2-13-92

U.S. EPA CONCURRENCES

OFFICIAL FILE COPY



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105-3901

CERTIFIED MAIL RETURN RECEIPT
RECEIPT REQUESTED P 057 506 620

March 9, 1992

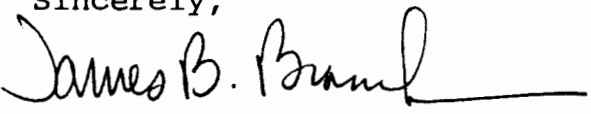
Maurice W. Callaghan
General Manager
Star-Kist Samoa, Inc.
P.O. Box 368
Pago Pago, American Samoa 96799

Dear Mr. Callaghan:

Enclosed please find the consent agreement and final order on consent assessing civil penalty from Star-Kist Samoa, Inc. for violation of the Marine Protection, Research and Sanctuaries Act. Please review these documents, sign the consent agreement and return to me. After these documents are returned to me and signed by the appropriate U.S. EPA officials, a fully signed copy of the consent agreement and final order will be sent to you.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,


for Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Christopher Sproul, EPA-ORC
Norman Wei, Star-Kist Seafood Company

CERTIFIED MAIL RETURN RECEIPT
RECEIPT REQUESTED P 057 506 620

March 9, 1992

Maurice W. Callaghan
General Manager
Star-Kist Samoa, Inc.
P.O. Box 368
Pago Pago, American Samoa 96799

Dear Mr. Callaghan:

Enclosed please find the consent agreement and final order on consent assessing civil penalty from Star-Kist Samoa, Inc. for violation of the Marine Protection, Research and Sanctuaries Act. Please review these documents, sign the consent agreement and return to me. After these documents are returned to me and signed by the appropriate U.S. EPA officials, a fully signed copy of the consent agreement and final order will be sent to you.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Christopher Sproul, EPA-ORC
Norman Wei, Star-Kist Seafood Company

SYMBOL	E-4	E-4				
SURNAME	Young	Sproul				
DATE	3/9/92	3/9/92				
U.S. EPA CONCURRENCES						OFFICIAL FILE COPY

SENDER: Complete Items 1 and 2 when additional services are desired, and complete Items 3 and 4.
 Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to: Maurice Callaghan Star-Kist Samoa P.O. Box 368 Pago Pago, AS 96799	4. Article Number P 057 506 620
	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
	Always obtain signature of addressee or agent and <u>DATE DELIVERED</u> .
5. Signature — Address X	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature — Agent X	
7. Date of Delivery 3/11/88	

PS Form 3811, Mar. 1988

U.S.G.P.O. 1988-212-865

DOMESTIC RETURN RECEIPT

P 057 506 620

NO INSURANCE COVERAGE PROVIDED
 (See Reverse)

Sent to	M. Callaghan
Street and No.	P.O. Box 368
P.O., State and ZIP Code	Pago Pago, AS 96799
Postage	5
Certified Fee	
Restricted Delivery Fee	
Return Receipt Fee	
Total Receipt showing Postage and Date Delivered	
Return Receipt showing to whom Delivered and Address of Delivery	
POSTAGE and Fees	5
Postmark or Date	



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105-3901

CERTIFIED MAIL RETURN RECEIPT
RECEIPT REQUESTED P 057 506 639

March 9, 1992

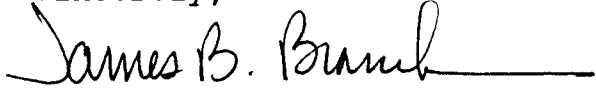
Michael P. Macready
General Manager
VCS Samoa Packing Company
P.O. Box 957
Pago Pago, American Samoa 96799

Dear Mr. Macready:

Enclosed please find the consent agreement and final order on consent assessing civil penalty from VCS Samoa Packing Company for violation of the Marine Protection, Research and Sanctuaries Act. Please review these documents, sign the consent agreement and return to me. After these documents are returned to me and signed by the appropriate U.S. EPA officials, a fully signed copy of the consent agreement and final order will be sent to you.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,


for Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Christopher Sproul, EPA-ORC
Jim Cox, Van Camp Seafood Company, Inc.

CERTIFIED MAIL RETURN RECEIPT
RECEIPT REQUESTED P 057 506 639

March 9, 1992

Michael P. Macready
General Manager
VCS Samoa Packing Company
P.O. Box 957
Pago Pago, American Samoa 96799

Dear Mr. Macready:

Enclosed please find the consent agreement and final order on consent assessing civil penalty from VCS Samoa Packing Company for violation of the Marine Protection, Research and Sanctuaries Act. Please review these documents, sign the consent agreement and return to me. After these documents are returned to me and signed by the appropriate U.S. EPA officials, a fully signed copy of the consent agreement and final order will be sent to you.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Christopher Sproul, EPA-ORC
Jim Cox, Van Camp Seafood Company, Inc.

SYMBOL	E-4	E-4				
SURNAME	myring	OB for NL				
DATE	3/9/92	3/9/92				
U.S. EPA CONCURRENCES						OFFICIAL FILE COPY

PS Form 3811, July 1983 447-845

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

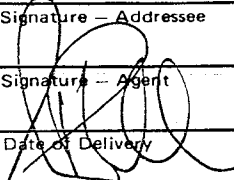
1. ☒ Show to whom, date and address of delivery.

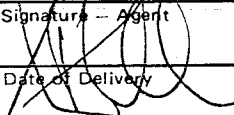
2. ☐ Restricted Delivery.

3. Article Addressed to:
Michael P. Macready
P.O. Box 957
Pago Pago, AS 96799

4. Type of Service:	Article Number
<input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail	P 057 506 639

Always obtain signature of addressee or agent and **DATE DELIVERED.**

5. Signature — Addressee
 X 

6. Signature — Agent
 X 

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

DOMESTIC RETURN RECEIPT

P 057 506 639

NO INSURANCE COVERAGE PROVIDED

NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to
M. Macready
 Street and No.
P.O. Box 957
 P.O. State and ZIP Code
PP, A.S. 96799
 Postage
 Certified Fee
 Special Delivery Fee
 Restricted Delivery Fee
 Return Receipt Fee
 Return Receipt Fee
 Date and Address of Delivery
 TOTAL Postage and Fees
 Postmark or Date

1 Christopher A. Sproul
2 Assistant Regional Counsel
3 U.S. Environmental Protection Agency
4 Region IX
5 75 Hawthorne Street
6 San Francisco, California 94105
7 (415) 744-1394
8

9 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

10 REGION IX

11
12
13
14
15 In the matter of) Docket No. MPRSA-IX-91-01
16)
17 STARKIST SAMOA, INC., VCS) CONSENT AGREEMENT AND FINAL
18 SAMOA PACKING COMPANY, and) ORDER ON CONSENT ASSESSING
19 PAGO MARINE, INC.) ADMINISTRATIVE CIVIL PENALTY
20 Respondents.)
21

22 CONSENT AGREEMENT

23 The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
24 REGION IX ("EPA Region IX" or "EPA") has issued an Administrative
25 Complaint for the Assessment of Civil Penalty In the Matter of
26 Starkist Samoa, Inc., VCS Samoa Packing Company, and Pago Marine,
27 Inc., Docket No. MPRSA-IX-91-01, pursuant to section 105(a) of

1 the Marine Protection, Research and Sanctuaries Act ("MPRSA")
2 alleging that the RESPONDENTS STARKIST SAMOA, INC. ("StarKist"),
3 VCS SAMOA PACKING COMPANY ("VCS"), and PAGO MARINE, INC. ("Pago
4 Marine") have violated the MPRSA. The EPA, StarKist, VCS and
5 Pago Marine having entered into this Consent Agreement,

6 NOW, THEREFORE, EPA, StarKist, VCS, and Pago Marine
7 HEREBY STIPULATE AS FOLLOWS:

8 1. Section 105(a) of the MPRSA authorizes EPA to
9 assess administratively a civil penalty against any person who
10 violates the Act or a permit issued pursuant to the Act of not
11 more than \$50,000 per violation. 33 U.S.C. § 1415(a). The
12 Administrator has delegated this authority to EPA Regional
13 Administrators. 40 C.F.R. § 220.4(b). The Regional
14 Administrator, Region IX has redelegated this authority to the
15 Director of the Water Management Division, Region IX.

16 2. Each day of a continuing violation, as well as the
17 unauthorized dumping from each vessel, constitutes a separate
18 MPRSA offense that may be subject to assessment of a penalty of
19 up to \$50,000. MPRSA § 105(c); 33 U.S.C. § 1415(c). In
20 assessing a penalty for any violations, EPA must take into
21 account the gravity of the violations, any prior violations, and
22 any good faith efforts to comply with the MPRSA after being
23 notified of violations. MPRSA § 105(a), 33 U.S.C. § 1415(a).

24 3. StarKist is a California corporation with its
25 principal place of business located in Pago Pago, American Samoa
26 and as such is a person within the meaning of the MPRSA. 33
27 U.S.C. §§ 1402(e) and 1411(a). StarKist is authorized to dispose

1 fish processing wastes into the Pacific Ocean near American Samoa
2 at a designated dump site by MPRSA Permit No. OD 90-01 Special.

3 4. VCS is a corporation with its principal place of
4 business located in Pago Pago, American Samoa and as such is a
5 person within the meaning of the MPRSA. 33 U.S.C. §§ 1402(e) and
6 1411(a). VCS is authorized to dispose fish processing wastes
7 into the Pacific Ocean near American Samoa at a designated dump
8 site by MPRSA Permit No. OD 90-02 Special.

9 5. Pago Marine is an American Samoa corporation with
10 its principal place of business located in Pago Pago, American
11 Samoa and as such is a person within the meaning of the MPRSA.
12 33 U.S.C. §§ 1402(e) and 1411(a). MPRSA Permits Nos. OD 90-01
13 and 90-02 Special ("the Permits") name Pago Marine as the waste
14 transporter of the fish processing wastes that StarKist and VCS
15 dump into the Pacific Ocean pursuant to the Permits. On all
16 disposal trips, Pago Marine disposes of commingled fish
17 processing wastes from StarKist and VCS.

18 6. EPA Region IX brought this action to assess civil
19 penalties for alleged violations committed by StarKist, VCS, and
20 Pago Marine of MPRSA section 101(a), 33 U.S.C. § 1411(a), and the
21 Permits issued pursuant to MPRSA section 102, 33 U.S.C. § 1412.
22 EPA alleged that StarKist, VCS, and Pago Marine violated the
23 MPRSA and the Permits by failing to adhere to Special Conditions
24 4.3 and 4.4 of the Permits.

25 7. Special Conditions 4.3 and 4.4 of the Permits
26 require that on all ocean dumping operations authorized under the
27 Permits, the disposal vessel must proceed to the center of the
28

1 designated ocean dump site, determine the prevailing current, and
2 then proceed 1.1 nautical miles up current from the center of the
3 disposal site before commencing dumping. The intent of this
4 requirement is to maximize the dispersion of wastes within the
5 designated dump site and to ensure that currents do not carry the
6 wastes beyond the authorized dump site boundaries. EPA has
7 alleged that the respondents failed to conduct dumping operations
8 as required by Special Conditions 4.3 and 4.4 of the Permits on
9 each of 145 separate disposal vessel trips between August 7, 1990
10 and January 31, 1991.

11 8. For their violations alleged in the Complaint,
12 StarKist and VCS shall each pay to the United States a civil
13 penalty of \$2,000. In addition, StarKist and VCS shall each
14 contribute \$6,000 to the Supplemental Environmental Project
15 described in paragraph 10.

16 9. For its violations alleged in the Complaint, Pago
17 Marine shall pay to the United States a civil penalty of \$500 and
18 contribute \$1,000 to the Supplemental Environmental Project
19 described in paragraph 10.

20 10. The Supplemental Environmental Project referred to
21 in paragraphs 8 and 9 shall be the Enhanced Marine Pollution
22 Surveillance Project described in the attached Memorandum of
23 Understanding between EPA and the American Samoa Environmental
24 Quality Commission (Exhibit 1).

25 11. To satisfy their civil penalty liability under
26 this Consent Agreement, StarKist and VCS shall tender money
27 orders or certified checks in the amount of \$2,000, and Pago
28

1 Marine shall tender a money order or certified check in the
2 amount of \$500, made payable to the Treasurer, United States of
3 America. StarKist, VCS and Pago Marine shall tender these money
4 orders or checks via certified mail within thirty (30) days of
5 receiving service of this Consent Agreement and Final Order on
6 Consent to:

7 U.S. Environmental Protection Agency
8 Region IX
9 Regional Hearing Clerk
P.O. Box 360863M
Pittsburgh, PA 15251

10 and mail photocopies via certified mail of the money orders or
11 checks to:

12 Regional Hearing Clerk
13 U.S. Environmental Protection Agency
14 Region IX
75 Hawthorne Street
San Francisco, CA 94105

15 Christopher A. Sproul
16 Office of Regional Counsel, RC-2-4
17 U.S. Environmental Protection Agency
18 Region IX
75 Hawthorne Street
San Francisco, CA 94105

19 In accordance with the Debt Collection Act of 1982, the
20 respondents shall be subject to three forms of late charges in
21 the event of late payment of the penalties provided for by this
22 Consent Agreement. One, each respondent shall pay an interest
23 charge on any of its unpaid penalties that are due and payable
24 under this paragraph at the interest rate published by the U.S.
25 Treasury. Two, each respondent shall pay a handling charge of
26 \$15 for each thirty day period past the due date specified by
27 this Consent Agreement that it does not pay its penalties in

1 full. Three, in addition to the former two charges, each
2 respondent shall pay a 6% per annum interest charge on any of its
3 unpaid penalties still due and payable more than ninety days past
4 the due date specified in this Consent Agreement. Interest and
5 handling charges as provided for in this paragraph shall be
6 tendered along with any late penalty payments in the same manner
7 as specified above.

8 12. To satisfy their obligation to contribute to the
9 Supplemental Environmental Project described in paragraph 10,
10 StarKist and VCS shall tender money orders or certified checks in
11 the amount of \$6,000, and Pago Marine shall tender a money order
12 or certified check in the amount of \$1,000, made payable to
13 Department of Treasury, American Samoa Government (Oil Spill
14 Trust Fund, Account No. 180). StarKist, VCS and Pago Marine
15 shall tender these money orders or checks along with a cover
16 letter modeled after the attached sample letter (Exhibit 2) via
17 certified mail within thirty (30) days of receiving service of
18 this Consent Agreement and Final Order on Consent to:

19 Ace Tago
20 Director
21 Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

22 and mail photocopies via certified mail of these money orders or
23 checks to:

24 Regional Hearing Clerk
25 U.S. Environmental Protection Agency
Region IX
26 75 Hawthorne Street
San Francisco, CA 94105
27
28

Christopher A. Sproul
Office of Regional Counsel, RC-2-4
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

13. StarKist, VCS and Pago Marine shall each pay to the United States, upon written demand of EPA, a stipulated penalty of \$150 for any violations of Special Conditions 4.3 and 4.4 of the Permits that occur after the execution of this Consent Agreement until the expiration date of the Permits, July 30, 1993.

14. Notwithstanding the payment of any stipulated penalty pursuant to the preceding paragraph, EPA shall retain any and all enforcement authority, including the right to seek civil and/or criminal penalties or fines and civil injunctive relief, that it would otherwise have against StarKist, VCS, or Pago Marine for violations of the MPRSA occurring subsequent to the execution of this Consent Agreement.

15. Within thirty (30) days of receiving service of this Consent Agreement and Final Order on Consent, StarKist and VCS shall ensure that the Captain(s) of the disposal vessel(s) used on any and all ocean dumping operations authorized by the Permits has received all instruction necessary for navigating the disposal vessel(s) in the manner required by Special Conditions 4.3 and 4.4. StarKist and VCS shall submit to EPA a certified statement or statements from the Captain(s) indicating that the Captain(s) have received this instruction and that the Captain(s) understand the requirements of Special Conditions 4.3 and 4.4,

1 are capable of ensuring compliance with these conditions, and
2 will, to the best of their ability, ensure that the conditions
3 are met.

4 16. If new Captain(s) are hired to pilot disposal
5 vessel(s) while the Permits are in effect, StarKist and VCS
6 shall, before these Captain(s) are allowed to pilot disposal
7 vessel(s), provide instruction to these new Captain(s) and secure
8 certified statement(s) from them in the same manner as required
9 in the preceding paragraph for the current Captain(s).

10 17. The responsibility to meet the requirements of
11 paragraphs 15 and 16 shall be the joint obligation of StarKist
12 and VCS. If StarKist and VCS fail to complete the requirements
13 of paragraphs 15 and 16 by the deadlines established by those
14 paragraphs, then StarKist and VCS shall each pay to the United
15 States, upon written demand from EPA, a stipulated penalty of
16 \$100 per day until the requirements of paragraphs 15 and 16 are
17 met.

18 18. StarKist, VCS, and Pago Marine shall not deduct
19 the civil penalties or Supplemental Environmental Project
20 contributions provided for in paragraphs 8, 9, 11-13 and 17 from
21 their income for purposes of federal, state or local income tax.

22 19. Payment of the civil penalties and contributions
23 to the Supplemental Environmental Project referred to in
24 paragraphs 8, 9, and 11-12, together with adherence to all
25 additional requirements of this Consent Agreement and
26 accompanying Final Order on Consent, shall constitute full
27 satisfaction of any and all MPRSA civil penalty liability for
28

1 StarKist, VCS, and Pago Marine for the MPRSA violations alleged
2 in the Complaint.

3 20. Nothing in this Consent Agreement shall in any way
4 limit any right that EPA might otherwise have to seek injunctive
5 relief against StarKist, VCS and Pago Marine for violations of
6 any provision of federal law. Except as otherwise provided in
7 paragraph 19 of this Consent Agreement, EPA retains all legal
8 rights and remedies it would otherwise have against StarKist, VCS
9 and Pago Marine for violations of any provision of federal law.

10 21. StarKist, VCS, and Pago Marine neither admit nor
11 deny liability for any of the violations alleged by EPA in the
12 Complaint in this Matter.

13 22. In entering this Consent Agreement, EPA, StarKist,
14 VCS, and Pago Marine hereby waive any and all rights to an appeal
15 of the Order on Consent to be entered in this Matter.

16 23. If StarKist, VCS, or Pago Marine disputes any
17 claim made by EPA for stipulated penalties pursuant to this
18 Consent Agreement, StarKist, VCS or Pago Marine shall state this
19 in writing to EPA and request a hearing before EPA Region IX's
20 Regional Judicial Officer within thirty (30) days of receiving
21 EPA's demand for stipulated penalties. Failure to adhere to this
22 requirement shall constitute waiver of any right to contest or
23 appeal stipulated penalty liability. The decision made by the
24 Regional Judicial Officer following a hearing on any stipulated
25 penalties dispute shall be binding and shall not be appealed by
26 EPA, StarKist, VCS or Pago Marine to any administrative or
27 judicial authority.

1 FOR THE CONSENTING PARTIES:
2

3 Date

Harry Seraydarian
Director, Water Management Division
U.S. Environmental Protection Agency,
Region IX

6 Date

Maurice W. Callaghan
President and General Manager
StarKist Samoa, Inc.

9 Date

Michael P. MacReady
General Manager
VCS Samoa Packing Company

12 Date

D.H. Silk
President
Pago Marine, Inc.

1 FINAL ORDER ON CONSENT

2 EPA Region IX, StarKist, VCS, and Pago Marine having entered
3 into the foregoing Consent Agreement,

4 IT IS HEREBY ORDERED THAT:

5 1. StarKist and VCS shall each pay a civil penalty of
6 \$2,000 and Pago Marine shall pay a civil penalty of \$500 to the
7 Treasurer of the United States of America as specified in the
8 Consent Agreement.

9 2. StarKist, VCS and Pago Marine shall adhere to all
10 further requirements of the Consent Agreement, including the
11 requirements to contribute to a Supplemental Environmental
12 Project, instruct disposal vessel Captain(s) on proper disposal
13 requirements and submit the required certified statements from
14 disposal vessel Captain(s), pay stipulated penalties for permit
15 and/or Consent Agreement violations upon written demand from EPA
16 unless successfully contested as provided for in the Consent
17 Agreement, and refrain from claiming the penalties or
18 contributions required under the Consent Agreement as deductions
19 from income for federal, state, or local income tax purposes.

20 3. This order constitutes full adjudication of the
21 Complaint against StarKist, VCS, and Pago Marine issued by EPA in
22 this Matter. This order shall remain in effect until MPRSA
23 Permits Nos. OD 90-01 and OD 90-02 Special expire on July 30,
24 1993.

25 _____
26 Date

26 Steven W. Anderson
27 Regional Judicial Officer
28 U.S. Environmental Protection Agency,
Region IX

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
U.S. ENVIRONMENTAL PROTECTION AGENCY AND THE ENVIRONMENTAL
QUALITY COMMISSION CONCERNING THE
SAMOA PACKING CO. AND STAR KIST SAMOA INC. SUPPLEMENTAL
ENVIRONMENTAL PROJECT**

I. OBJECTIVE

The U.S. Environmental Protection Agency (USEPA) and Environmental Quality Commission (EQC) seek to implement a Supplemental Environmental Project in lieu of civil fines collected from VCS Samoa Packing Co. and Star Kist Samoa Inc. for violations of Special Ocean Dumping Permits OD 09-01 and OD 90-02 respectively, dated July 31, 1990. The purpose of this Memorandum of Understanding (MOU) is to clarify the roles and responsibilities regarding the Supplemental Environmental Project, Enhanced Marine Pollution Surveillance.

II. USEPA ROLE AND RESPONSIBILITIES

- A. Funding in the amount of \$13,000 will be collected by USEPA for implementation of this project from Pago Marine, Inc., Samoa Packing Co., and Star Kist Samoa, Inc. in lieu of civil fines. This will be deposited in the Oil Spill Trust Fund, American Samoa Government Account No. 180, which is administered by the Executive Secretary, EQC.
- B. USEPA, Region 9, Office of Pacific Island and Native American Programs, will provide guidance and oversight as necessary to EQC for implementation of the Supplemental Environmental Project.
- C. Approval in writing from Norman L. Lovelace, Chief, Office of Pacific Island and Native American Programs, USEPA Region 9, will be obtained for all expenditures.

III. EQC ROLE AND RESPONSIBILITIES

- A. EQC will be responsible for planning, implementation, and follow up of the Enhanced Marine Pollution Surveillance Project.
- B. EQC will be responsible through the Marine Enforcement Unit and EQC staff for meeting the following functions of the project.
 - 1. Complete an increased number of routine and unplanned vessel, cannery facility, and wharf inspections for pollution violations.
 - 2. Monitor on a more frequent basis vessels, facilities, and the wharf by boat spontaneously on a 24-hour basis for pollution violations.

3. Routinely and spontaneously monitor the ocean dumping of cannery sludge for compliance with Special Ocean Dumping Permits No. OD 90-01 and OD 90-02.
 4. Provide staff support, equipment and training to effectively carry out the above increased functions.
 5. Complete a pamphlet for all vessels in English, Chinese, Korean, and Samoan outlining pollution and marine laws.
- C. EQC will determine the frequency and schedule necessary to effectively prevent pollution violations. A plan (see Attachment A) to carry out the functions listed in B. above will be submitted to USEPA for approval within 30 days of the effective date of the settlement agreement.
- D. The EQC will provide a report with recommendations to the canneries, its waste transporter, and the USEPA outlining corrections or improvements on the waste disposal operation six months after initiation of the project.
- E. The MEU shall continue its increased inspection and monitoring activities to insure implementation of its recommendations by the canneries and associated vessels. The EQC will document the effectiveness of the project in a report submitted 12 months after initiation of the project detailing the success of the project through frequency of inspections, the number and type of violations cited, the number and type of pollution events, the amount of fines collected, and reports on cannery ocean dumping.

IV. ACCOUNTING PROCEDURES

- A. Funds for this project will be deposited in the Oil Spill Trust Fund Account, American Samoa Government Treasury Department Account No. 180 to be administered by the Executive Secretary, EQC. A separate accounting of the total amount of this project, \$13,000, will be maintained by the EQC Executive Secretary. Disbursements will be made from this fund only for expenses related to this project upon authorization by the EQC Executive Secretary. Expenditures shall be made only with prior approval of Norman L. Lovelace, Chief, Office of Pacific Island and Native American Programs, EPA Region 9.
- B. The funds deposited in this account shall be utilized only for this project. A quarterly accounting of the funds will be provided to USEPA, Samoa Packing, Inc., Star Kist Samoa, and Pago Marine, Inc. within 30 days after the close of the quarter.
- C. The Executive Secretary of the EQC shall be responsible for providing reports on the fund disbursement and followup.

V. GENERAL PROVISIONS

- A. This MOU does not supplement or replace other understandings or arrangements between USEPA and EQC, or other responsibilities and duties of USEPA or EQC.
- b. This MOU may be modified from time to time by mutual consent and officially endorsed by the Director, Water Management Division of USEPA, Region 9 and Chairman of EQC.
- c. This MOU shall be effective upon signature by the Director, Water Management Division, USEPA, Region 9, and Chairman of EQC and shall remain in effect until terminated.

IN WITNESS WHEREOF, each of the parties hereto has executed this MOU as of the day and year first written below:

WITNESS:

BY: _____
HARRY SERAYDARIAN, DIRECTOR
WATER MANAGEMENT DIVISION
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 9

DATE: _____

BY: William P. Coleman
WILLIAM P. COLEMAN, CHAIRMAN
ENVIRONMENTAL QUALITY COMMISSION

DATE: 11-29-91

ENHANCED MARINE POLLUTION SURVEILLANCE PROJECT PLAN

Introduction

The U.S. Environmental Protection Agency (ASEPA) has collected \$13,000 in fines from Star Kist Samoa, Samoa Packing Co., and Pago Marine for violations of Ocean Dumping Permit conditions. These funds will be utilized to conduct the Enhanced Marine Pollution Surveillance Project (EMPSP). The roles and responsibilities of the USEPA, the Environmental Quality Commission (EQC), and accounting procedures are contained in a Memorandum of Understanding between these agencies. This project will be completed by the Marine Enforcement Division (MED) and the EQC. The following plan outlines the objectives of this project and how they will be met.

Objectives and Activities

1. Complete an increased number of routine and unplanned vessel, cannery facility, and wharf inspections for pollution violations.

Presently, the MED patrols the areas within Pago Pago Harbor most vulnerable for pollution incidents by vehicle and foot three times daily. This will be increased to twice per shift for a 3 month period depending upon weather and staffing. Search and rescue and emergency response may take priority. Records of observations from inspections and the number of tickets issued will be reviewed after the three month period to determine the effect of increased patrols on compliance. In addition, patrols will be completed at staggered times to prevent anticipation by potential violators.

2. Monitor on a more frequent basis vessels, facilities, and the wharf by boat spontaneously on a 24-hour basis for pollution violations.

Patrols via inflatable or a Boston Whaler are made once per day depending upon the staffing. These patrols will be increased to twice per day and at varied times depending upon weather and staffing. Search and rescue and emergency response may take priority. Surveillance after dark will be made a priority. This will continue for a 3 month period after which a review of records will be completed to determine the effectiveness of the surveillance.

3. Routinely and spontaneously monitor the ocean dumping of cannery sludge for compliance with Special Ocean Dumping Permit Nos. OD 90-01 and OD 90-02.

Presently the MED monitors ocean dumping of sludge on at least a weekly basis. This will be increased to two to three times weekly or a six month period. Monitoring will include: 1) checking on the correct dump site via land bearings; 2) determining whether the correct dumping pattern is followed; and 3) determining that sludge is only disposed of at the dump site. A follow up evaluation of site reports will be completed at 3 months and again at 6 months to determine the necessity of the increased monitoring and

compliance with permit conditions.

4. Provide staff support, equipment, and training to effectively carry out the increased functions.

The EQC will work with the MED to ensure that adequate staffing and equipment are available to complete the increased patrols, surveillance, and monitoring described above.

5. The EQC in conjunction the with the MED and the U.S. Coast Guard will completed a pamphlet which explains pollution and marine laws, penalties, and correct methods for disposal of vessel wastes. This will be translated through assistance of on island tuna vessel agents. Completion date for the pamphlet is 6 months from the start of the project. Distribution of the pamphlet will be provided by the MED, the Port Administration, and ship agents.
6. The EQC will review the outcome of increased monitoring after 3 months and provide recommendations to the MED on the feasibility and effectiveness of continuing the increased monitoring or whether additional monitoring is warranted.

PROJECT SCHEDULE

<u>Task</u>	<u>Responsible Party</u>	<u>Time for Completion</u>
1. 6 vehicle/foot patrols daily of vessels, canneries, and wharf	MED	3 months
2. 2 boat patrols daily	MED	3 months
3. 2 ocean dump site monitoring trips/week	MED	6 months
4. Review effectiveness of increased monitoring and provide recommendations	EQC, MED	3 mos.,6 mos.
5. Provide a report on fish processing waste disposal monitoring	EQC	6 months
6. Project report to USEPA	EQC	12 months
7. Complete multilingual pamphlet	EQC	6 months

Budget for Enhanced Marine Pollution Surveillance

1. Waterproof Binoculars (3 @ approx. \$325 each) \$1,000

The MED presently does not have any marine binoculars. Part of the increased surveillance/monitoring will be observations of possible violations of marine pollution laws which necessitate the ability to monitor these violations from afar, unobserved by the violators. Without binoculars, it would be very difficult, if not impossible, to conduct such surveillance.

2. 35 mm Camera/Telephoto Lens/Case \$1,500

The MED does not have any camera equipment necessary to carryout the additional surveillance duties for this project. The camera and telephoto lens are necessary to document violations of marine pollution laws for use as evidence in substantiating the violations. As in the justification for the binoculars, it is necessary to document these violations from afar, without being observed by the violators. Without this equipment and photo documentation, it will be more difficult to prove that violations occurred.

3. Marine and VHF Radio equipment \$3,500

The MED presently has VHF equipment installed on its boat; however, it needs additional communication equipment for the Zodiacs (large inflatable rafts) which will be utilized for surveillance in Pago Pago Harbor. Additionally, walkie-talkies are needed for each individual officer, as some of the enhanced surveillance and monitoring will be done on foot, along the pier and on the ships. Presently, each officer does not have his own walkie-talkie. Immediate communications are needed for all MED staff in order to coordinate surveillance activities, communicate potential violations and need for additional back-up if necessary.

4. MED Staffing \$6,000

This funding will be utilized for additional MED staffing to support the increased monitoring efforts.

5. Printing Costs for Marine Pollution Pamphlets \$1,000

- A. Development of 4-page pamphlet by ASEPA/MED on marine pollution laws and regulations, i.e.....explain generally which laws will be covered No cost
- B. Translation costs (Samoan, Chinese, Korean) \$ 200
- C. Printing costs (500 pamphlets/language @ \$200/set) \$ 800

NOVEMBER 25, 1991

Ace A. Tago
Director
Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

Dear Mr. Tago:

Enclosed is a check for \$6,000 to support the Supplemental Environmental Project, Enhanced Marine Pollution Surveillance. This check is to be deposited in American Samoa Government Treasury Account No. 180, Oil Spill Trust Fund as agreed to in the Memorandum of Understanding Between the U.S. Environmental Protection Agency and the Environmental Quality Commission concerning the Samoa Packing Co. and Star Kist Samoa, Inc. Supplemental Environmental Project.

Sincerely,

Michael Macready
General Manager
Samoa Packing Co.

cc: Chairman, EQC
Executive Secretary, EQC